

When the jury was sworn to try the issue on the plea of *nulla bona*, the papers, which Bryden had stipulated to deliver, were produced; to show that he had complied with the contract on his part; and that, in consequence thereof, Chase had become his debtor for the sum of \$6,000, with interest thereon. And it being believed and supposed, by the attorneys, David Hoffman and John Purviance, (for they alone conducted the trial,) that the principal and interest of the debt due from Chase to Bryden amounted to \$9,326.62, the jury were permitted or directed to find a verdict for that sum; upon which a judgment was rendered.

Soon after this judgment was obtained, Chase complained to David Hoffman, the attorney for Manhardt, and also to John Purviance, that it had been obtained for much more than was really due, even if he were chargeable with interest; but that he ought not to have been, and could not lawfully be charged with interest at all, according to the terms of his contract. Upon which those attorneys both insisted, that he was chargeable with interest from the date of the purchase. But they agreed, that if it should appear *on a calculation and review of the proceedings, that he had

been charged with too much, the excess should be remitted. **339** Indeed they, admitted, that there was an excess which had occurred by mistake; which error should certainly be corrected. Chase did not then assert, that he owed nothing to Bryden; or that, according to the terms of his contract, he could not, at that time, have been legally considered as the debtor of Bryden. It was not until some time after, that he objected to a judgment having been rendered, at that time, for either principal or interest, on the ground, that Bryden had failed to comply with the contract on his part.

It appears, that the policies of insurance had been regularly transferred by Bryden according to the terms of the contract with Chase, on the 11th of April, 1812; and that the papers alluded to in the contract of the 26th of March, 1812, were retained by John Purviance for some time, and are now filed in this case as exhibits referred to in the answer of David Hoffman.

These facts and circumstances have been collected from the bill, answers, exhibits and proofs; they are all that have any material bearing upon the matter now in controversy; other particulars will be noticed in the course of the investigation.

It does not appear, from any thing in these proceedings, what was the nature and extent of Richard M. Chase's interest in the property called The Fountain Inn; but it is quite certain that the contract of the 26th of March, 1812, was made between this complainant Samuel Chase and James Bryden only;—that no other persons were immediately parties thereto. The complainant says in his bill, that he agreed with Bryden to purchase of him that property; and in the agreement itself he says, "I agree that on James Bryden's delivering to me," &c. Hence it is clear, that,